

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR  
PROTECTION CORPORATION,**

Plaintiff-Applicant,

v.

**BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,**

Defendant.

---

In re:

**BERNARD L. MADOFF,**

Debtor.

---

**IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,  
and Bernard L. Madoff,**

Plaintiff,

v.

**CITIBANK (SWITZERLAND) LTD.,**

Defendant.

Adv. Pro. No. 08-01789 (SMB)

**SIPA LIQUIDATION**

(Substantively Consolidated)

Adv. Pro. No. 12-01700 (SMB)

**APPELLEE'S COUNTER-DESIGNATION OF ITEMS  
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellee Citibank (Switzerland) AG, by and through its undersigned counsel, respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, its counter-designation of items to be included in the record on appeal with respect to the appeal by Irving H. Picard (the "Trustee"), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act ("SIPA"), 15 U.S.C. §§

78aaa, et seq., and Bernard L. Madoff, individually, in the above-captioned adversary proceeding (the “Adversary Proceeding”) of the Stipulated Final Order Granting Motion to Dismiss Complaint (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL<sup>1</sup>**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Designation by Appellants of Items to Be Included in the Record on Appeal (ECF No. 92)<sup>2</sup>;
2. Letter on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehan’s Letter dated April 7, 2016 (Secs. Inv. Protection Corp. v. Bernard L. Madoff Inv. Secs., LLC, Adv. Pro. No. 08-01789 (SMB), ECF No. 13070);
3. The Certification of Direct Appeal to Court of Appeals (ECF. No. 94).

**RESERVATION OF RIGHTS**

Citibank (Switzerland) AG expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

---

<sup>1</sup> Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

<sup>2</sup> Citations to (ECF No. \_\_\_\_) refer to docket entries from Picard v. Citibank (Switzerland) Ltd., Adv. Pro. No. 12-01700 (SMB) (Bankr. S.D.N.Y.).

Dated: New York, New York  
April 11, 2017

CLEARY GOTTLIEB STEEN &  
HAMILTON LLP

By: /s/ Carmine D. Boccuzzi, Jr.  
Carmine D. Boccuzzi, Jr.  
(cboccuzzi@cgsh.com)  
Erica Klipper  
(eklipper@cgsh.com)  
One Liberty Plaza  
New York, NY 10006  
(212) 225-2000

*Attorneys for Citibank (Switzerland) AG*